

BEAVER COUNTY

Orphan's Court Rules

PREFACE

The Beaver County Orphans' Court Rules are intended to supplement the Orphans' Court Rules promulgated by the Supreme Court of Pennsylvania. The State and Local Rules of Civil Procedure are to be followed where neither the State or Local Orphans' Court Rules apply.

The rules in bold face type are the Supreme Court Orphans' Court Rules. The rules in regular type are the Orphans' Court Rules of Beaver County.

The effective date of these Rules is June 7, 1989. All presently existing Local Rules of the Orphans' Court are hereby rescinded as of the effective date of these Rules.

RULE 1. JUDGES — LOCAL RULES

Rule 1.1 *Powers of Judges*

Any judge of an Orphans' Court Division, whether or not it consists of more than one judge, may hear and determine all matters jurisdiction of which is exercised through the Orphans' Court Division.

L. 1.1 A

All judges of the Court of Common Pleas of Beaver County are authorized to act in Orphans' Court proceedings.

Rule 1.2 *Local Rules*

The Orphans' Courts of the several judicial districts of this Commonwealth may adopt local rules regulating practice and procedure, but such rules shall not be inconsistent with any rule adopted by the Supreme Court of this Commonwealth or any Act of Assembly regulating the practice and procedure in the Orphans' Courts of this Commonwealth.

DOCKETING CASES

L. 1.2 A *Number of Cases.*

There shall be no terms of Orphans' Court. The Register of Wills, as Register of Wills and Clerk of Orphans' Court shall assign to new matters, as filed, consecutive numbers starting with number one at the beginning of each calendar year. The year, number, and the name of the case shall be included in the caption of all papers filed in Court, in the Clerk's Office or in the Register of Wills Office.

L. 1.2. B *Endorsements.*

There shall be endorsed on the documentary cover binding each pleading, brief, or record in a case, the number, the name of the estate, and the parties, a distinctive designation of what the pleading contains, and the name and office address of counsel and Supreme Court Number.

L. 1.2 C *Holidays.*

Whenever a session of court, a return day, or any time fixed

for performing any judicial or clerical duty, falls on a holiday, Saturday or a Sunday, the next following day not a holiday, a Saturday or a Sunday shall be the day for session of court, the return day, or the time for performance of the judicial or clerical act, unless otherwise provided by these rules.

L. 1.2 D *Motions.*

Orphans' Court motions shall be presented in regular Motions Court and shall comply in all respects with the Local Rules of Civil Procedure.

L. 1.2 E *Attorneys.*

Appearance. Every attorney employed in any proceeding shall enter his appearance by praecipe, noting thereon the date on which entered, or by endorsement on papers filed, and shall not withdraw the same without leave of court.

L. 1.2 F *Trust Inter Vivos.*

The original, or a photographic copy certified by counsel to be true and correct, of the trust instrument and any amendments thereto, shall be filed with the clerk when the court is first required to exercise its jurisdiction over the inter vivos trust. The instrument shall be indexed and recorded by the clerk. Any revocation shall be likewise filed, indexed and recorded. The rules of court applicable to testamentary trusts shall apply to trusts inter vivos as far as appropriate.

L. 1.2 G *Sureties.*

(1) Individual Sureties. Individuals proposed as sureties on bonds of fiduciaries shall file an affidavit on the printed form supplied by the clerk, setting forth the facts required thereby. Such affidavit shall be filed together with the bond when that is filed for approval, and shall be renewed annually thereafter as long as the bond shall remain in effect. A member of the Bar or any employee of this court shall not act as surety in any proceeding in this court, except by special leave of court.

(2) Corporate Sureties. Every surety company duly authorized to do business in Pennsylvania may become surety

on any bond or obligation required to be filed in this court; provided that a currently effective certificate issued to it by the Insurance Department of Commonwealth of Pennsylvania, evidencing such right, shall be on file with the clerk.

L. 1.2 H *Corporate Fiduciaries.*

No corporation will be appointed as a fiduciary until it shall have filed with the Clerk of the Orphans' Court Division of the Court of Common Pleas of Beaver County, Pennsylvania, a certificate from the Secretary of the Commonwealth that it has been authorized to act as a fiduciary in the Commonwealth of Pennsylvania.

The Clerk is authorized to require the filing of a current certificate of authority whenever it should determine.

L. 1.2 I *Reproduction of Papers.*

All pleadings and papers filed with either the register or the clerk shall be legible. Should any such pleading or paper not be sufficiently legible for mechanical reproduction, the register or the clerk may refuse to receive such pleading or paper or may require that a legible copy thereof be submitted for mechanical reproduction.

L. 1.2 J *Fees from Appointments.*

All fees awarded to masters, auditors, examiners, trustees in partition, guardians ad litem or trustees ad litem appointed by the Court shall be paid to the Clerk of Orphans' Court. The clerk, upon receipt of such fees shall deposit them and disburse them to the person or persons entitled thereto.

L. 1.2 K *Arguments.*

The Beaver County Local Rules of Civil Procedure shall be followed with respect to Orphans' Court matters to be argued before the Court.

L. 1.2 L *Assets and Investments on Deposit with Clerk.*

Interest on deposits or income on securities shall inure to the benefit of those entitled to the principal unless otherwise directed by the Court.

No moneys shall be paid out or securities delivered by the depository except on the vouchers, checks or orders of the Clerk countersigned by the Judge of this Court.

The Clerk at the beginning of each calendar year shall cause to be prepared a written report of the status of such accounts listed according to estate caption and including a statement of the receipts and disbursements, if any, for the preceding calendar year. Such report shall be accompanied by a certificate of each depository as to the balance at the close of the preceding calendar year.

RULE 2. CONSTRUCTION AND APPLICATION OF RULES

Rule 2.1. Construction of Rules.

The rules adopted by the Supreme Court regulating the practice and procedure of the Orphans' Court of this Commonwealth, and the rules adopted by such courts, shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The court at every stage of any action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties in interest.

Rule 2.2. Waiver of Time Limitation.

The court, upon its own motion or the motion of any party, may extend any limitation of time prescribed by these rules.

Rule 2.3. Definitions.

The following words when used in these rules, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this rule:

"Clerk" means the Clerk of the Orphans' Court Division.

"Court", "Orphans' Court" or "Orphans' Court Division" means the Orphans' Court Division of the Court of Common Pleas, or any judge thereof, having juris-

diction.

"Fiduciary" includes executors, administrators, guardians, and trustees, whether domiciliary or ancillary, individual or corporate, subject to the jurisdiction of the Orphans' Court Division.

"Register of Wills" or "Register" means the Register of Wills having jurisdiction.

RULE 3. PLEADING AND PRACTICE

Rule 3.1. Conformity to Equity Practice in General.

Except where otherwise provided by a rule adopted by the Supreme Court, or by an Act of Assembly, or by general rule or special order of the local Orphans' Court, and except for the Notice to Defend required by Rule of Civil Procedure 1018.1, which form of notice shall be required only if directed by general rule or special order of the local Orphans' Court, the pleading and practice shall conform to the pleading and practice in equity in the local Court of Common Pleas.

Rule 3.2. Petition, Answer and Reply.

(a) On or before the return day fixed in the citation or order, and in all other cases within twenty days after service upon him of a copy of any petition, a party opposing the granting of the prayer of the petition shall file an answer admitting or denying the averments of fact of the petition and specifically stating his objections thereto and averring the facts relied upon by him.

(b) Within twenty days after service upon him of a copy of an answer, a petitioner may file a reply thereto and admit, deny or avoid the facts averred in the answer.

L. 3.2 A Limitation of Pleadings.

The pleadings in matters before this court shall be limited to a petition; an answer; new matter; a reply; preliminary objections; and an answer to preliminary objections.

Rule 3.3. Averment of Incapacity.

Whenever the name of a person must be set forth in a pleading or statement of proposed distribution and such person is not sui juris, the fact shall be set forth, together with the name and address of the guardian, trustee or other representative of such person, if any. If the person not sui juris is a minor who has no guardian of his estate, the minor's age, the name and address of his parents and of the person with whom he resides shall also be set forth.

Rule 3.4. Form of Petition. Exhibits. Consents.

(a) A petition shall set forth

(1) the caption;

(2) a heading indicating briefly the purpose of the petition;

(3) a concise statement of the facts relied upon to justify the relief desired, together with the citation of any Act of Assembly relied upon; and

(4) a prayer for the relief desired.

(b) The petitioner shall attach to the petition

(1) a form of decree; and

(2) such exhibits, consents or approvals as may be required by Act of Assembly or by local rule.

(c) If the petitioner is unable to attach any necessary exhibit, consent or approval, he shall so state in his petition, together with the reason for his inability.

L. 3.4 A Form. Additional Requirements.

(1) *Typing. Endorsement.* Every pleading shall be endorsed with the name of counsel and where practicable typewritten and double-spaced, or printed.

(2) *Signature and Verification.* Every pleading shall be signed by the attorney and where facts are averred shall be verified by one or more of the parties. If this is impracticable, it may be signed and verified by someone familiar with the facts, in which case the reason for the failure of the parties to

sign shall be set forth.

(3) *Decree.* The decree shall have a caption and be attached to the petition.

Rule 3.5. Mode of Proceeding on Petition.

Proceeding on petition shall be by citation to be awarded by the Court upon application of petitioner in any case where jurisdiction over the person of the respondent is required and has not previously been obtained. In all other cases, proceedings on petition shall be by notice. In either event a copy of the petition shall be served with the citation or notice unless service thereof is made by publication. Neither a citation nor notice shall be required where all parties in interest are the petitioners or their consents or joinders are attached.

Rule 3.6. Depositions, Discovery, Production of Documents and Perpetuation of Testimony.

The local Orphans' Court, by general rule or special order, may prescribe the practice relating to depositions, discovery, production of documents and perpetuation of testimony. To the extent not provided for by such general rule or special order, the practice relating to such matters shall conform to the practice in the Trial or Civil Division of the local Court of Common Pleas.

L. 3.7. Pre-trial Conference.

In any action the court, of its own motion or on motion of any party, may direct the attorneys for the parties to appear for a conference to consider:

(a) The simplification of the issues;

(b) The necessity or desirability of amendments to the pleadings;

(c) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;

(d) The limitation of the number of expert witnesses;

(e) Such other matters as may aid in the disposition of the action.

The court may make an order reciting the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and limiting the issues for trial to those not disposed of by admissions or agreements of the attorneys. Such order when entered shall control the subsequent course of the action unless modified at the trial to prevent manifest injustice.

RULE 4. COMPUTATION OF TIME

Rule 4.1. *Generally.*

(a) When any period of time is referred to in any rule, such period in all cases, except as otherwise provided in Rules 4.2 and 4.3, shall be so computed as to exclude the first and include the last day of such period.

(b) Whenever the last day of any such period shall fall on Saturday or Sunday, or on any day made a legal holiday by the laws of this Commonwealth or of the United States, such day shall be omitted from the computation.

Rule 4.2. *Publication For Successive Weeks.*

Whenever in any rule or Act of Assembly providing for the publishing of notices, the phrase "successive weeks" is used, weeks shall be construed as calendar weeks. The publication upon any day of such weeks shall be sufficient publication for that week, but at least five days shall elapse between each publication. At least the number of weeks specified in "successive weeks" shall elapse between the first publication and the day for the happening of the event for which publication shall be made.

Rule 4.3. *Computation of Months.*

Whenever in any rule or Act of Assembly the lapse of a number of months after or before a certain day is

required, such number of months shall be computed by counting the months from such day excluding the calendar month in which such day occurs, and shall include the day of the month in the last months so counted having the same numerical order as the day of the month from which the computation is made, unless there are not so many days in the last month so counted, in which case the period computed shall expire with the last day of such month.

RULE 5. NOTICE

Rule 5.1. *Method.*

Except where otherwise provided by a rule adopted by the Supreme Court or by an Act of Assembly, whenever notice is to be given a person, it shall be given

(a) by service upon the attorney appearing of record for such person; or

(b) if there is no such attorney, by personal service, delivery at the residence of such person or by mail, if his resident is known; or

(c) if his residence is not known, by publication once a week during three successive calendar weeks in the legal periodical, if any, and a newspaper of general circulation published at or near his last known residence within the county; or

(d) in such other manner as the court shall direct.

L. 5.1 A *Method. Legal Publication.*

The *Beaver County Legal Journal* shall be the legal periodical for the publication of notices whenever publication in a legal periodical is required by Act of Assembly, or by Rule or Order of Court.

L. 5.1 B *Service. On Attorneys.*

Written notice, served personally on an attorney of record or an employee of his office, or by mail addressed to his office, shall be notice to the party whom he represents, except where personal service on the party is specifically required.

Rule 5.2. Method. Person Under Incapacity.

Whenever notice is to be given a person who is not sui juris, notice shall be given to his guardian or trustee, but if there is no such guardian or trustee, notice shall be given in such manner as the court by general rule or special order shall direct. The return of such notice or an averment of such notice in a pleading shall set forth the incapacity of the person who is not sui juris and the name and address of his representative or other person who has been notified on his behalf.

Rule 5.3. Time for Notice.

Whenever notice of the intention to do any act is required, such notice shall be given at least ten days prior to the doing of the act, unless a different period is specified by a rule adopted by the Supreme Court or by an Act of Assembly.

L. 5.3 A Advance Notice.

In any proceeding in which no preliminary decree is required, the notice may be given in advance of the filing of the petition or other application to the court. In such cases the requirements of Rules L. 5.4 and L. 5.4A may be complied with by attaching the documents to the petition. The court may direct additional notice whenever that is deemed advisable by the nature of the proceeding or the circumstances.

Rule 5.4. Return of Notice.

Return of notice shall be by affidavit of the person serving, mailing, publishing or delivering such notice.

L. 5.4 A Notice. Additional Requirements.

In addition to the requirements of Rule 5.4 above, the following requirements shall be observed:

- (1) *Copy of Notice to be Attached.* A copy of the notice required to be given shall be attached to the petition or return.
- (2) *Personal Service.* Return of personal service of notice shall set forth the date, time, place and manner of service and

that a true and correct copy of the notice was mailed to the person served.

(3) *Registered or Certified Mail.* Return of notice by registered or certified mail shall state the date and place of mailing and shall include the return receipt, or a photostatic copy thereof. When the person who gives notice by registered or certified mail has personal knowledge, or has cause to believe, that such notice was not received by the person to be notified, he shall so state in the return. When the address of the person to be served by registered or certified mail is in a country other than the United States of America, a statement that the notice was so mailed to that person at the designated address shall be sufficient unless otherwise ordered.

Rule 5.5. Charities; Notice to the Attorney General.

In every proceeding in the Orphans' Court involving or affecting a charitable interest with the exception hereinafter set forth, at least fifteen days advance written notice thereof shall be given to the Attorney General of the Commonwealth of Pennsylvania at his principal office at Harrisburg, Pennsylvania, or to a deputy of his whom he shall have designated for such purpose for the judicial district in which the proceeding is pending. The notice shall include or be accompanied by such of the following as may be appropriate:

- (a) the caption of the case;
- (b) a description of the nature of the proceeding;
- (c) the date, time and place when the matter is to be heard by the court to the extent then known;
- (d) the name of the decedent, settlor, incompetent or minor, if not disclosed by the caption;
- (e) a copy of the will or other instrument creating the charitable interest;
- (f) the name and address of any specific charity which may be affected by the proceeding;
- (g) if the charitable interest is a present interest, a description and the approximate market value of that interest;

(h) if the charitable interest is a future interest and the estimated present value of the property involved exceeds \$25,000, a brief description thereof including the conditions precedent to its vesting in enjoyment and possession, the names and ages of persons known to have interests preceding such charitable interest, and the approximate market value of the property involved;

(i) a description of any unresolved claim and any material question of interpretation or distribution likely to be submitted for adjudication which may affect the value of the charitable interest;

(j) the names and addresses of all fiduciaries;

(k) the name and address of counsel for the fiduciary; and

(l) the name and address of counsel for any charity who has received notice or has appeared for it and the name of the charity which he represents.

Proof of service of the above notice by registered or certified mail or an acknowledgement of such notice received from the Attorney General or his deputy shall be filed of record in every proceeding involving a charitable interest prior to the entry of any decree.

Unless the Orphans' Court directs otherwise by local rule adopted after the effective date hereof, no notice to the Attorney General or his designated deputy shall be required with respect to a pecuniary legacy to a charity in the amount of \$25,000 or less which has been or will be paid in full.

RULE 6. ACCOUNTS AND DISTRIBUTION

Rule 6.1. Form.

Accounts shall conform to the following rules:

(a) The dates of all receipts and disbursements, the sources of the receipts, and the persons to whom disbursements are made and the purpose thereof shall be stated except that where a number of payments have

been received from the same source or disbursed to the same recipient for the same purpose over a period of time, such receipts or disbursements need not be itemized but may be stated in total amounts only with dates of beginning and ending of the period covered.

(b) Except where otherwise provided by a special order of the local court in a particular case, items of administration, distribution, receipts, disbursements, principal, and income shall be separately stated.

(c) Assets held by the accountant on the date of filing the account shall be separately itemized.

(d) Testamentary assets shall be segregated from appointive assets.

(e) Each local Court may adopt further rules not inconsistent with the foregoing regulating the form of accounts.

(f) Accounts may be prepared and filed in substantial conformity with either (i) the rules prescribed or forms approved by the local Court or (ii) any form approved by the Supreme Court of this Commonwealth — whichever the accountant may elect.

(g) The Uniform Fiduciary Accounting Principles and accompanying commentaries and illustrations recommended by the Committee on National Fiduciary Accounting Standards in collaboration with the National Center for State Courts are approved as an elaboration of the requirements of this rule. Reference may be made to them for determination of the adequacy of a particular account. The model Account formats attached thereto are the approved forms for purposes of paragraph (f)(ii) of this Rule in lieu of all forms heretofore approved.

L. 6.1 A Gross Estate. Summary. Balance.

The first page or pages of the account shall show, in addition to the caption, *the gross estate*, being the total of all receipts of principal and income.

L. 6.1 B *Blending.*

Accounts which blend items of receipts, disbursements or distribution, or which include receipts, disbursements or investments foreign to it, shall not be filed.

L. 6.1 C *Execution.*

(1) *Signing.* Accounts shall be signed by the fiduciaries stating them.

(2) *Verifications or Affidavit.* Accounts shall have attached to the end thereof the affidavit or verification of one or more of the fiduciaries joining in the account, wherein it is sworn, affirmed or verified that: the account as stated is true and correct; and, except where accountants are trustees or guardians, that the grant of letters and the first complete advertisement thereof occurred more than four months before the filing of the account.

Rule 6.2. *Form. Separate Accounts for Minors.*

Unless the court upon cause shown directs otherwise, a separate account shall be filed for the estate of each minor.

Rule 6.3. *Notice to Parties in Interest.*

No account shall be confirmed unless the accountant has given written notice of the filing of the account and the call thereof for audit or confirmation to every unpaid claimant who has given written notice of his claim to the accountant and to every other person known to the accountant to have or claim an interest in the estate as creditor, beneficiary, heir or next of kin.

The notice shall state the date, time and place of the audit to the extent then known; shall also state the last day to file objections to the account in counties where the local rules require written objections; and shall include a copy of the statement of proposed distribution in counties where accounts are not audited in open court.

L. 6.3 A *Time and Contents of Notice.*

Notice shall be given at least twenty (20) days prior to the audit and shall set forth in addition to the requirements of Rule 6.3:

(1) Either that a copy of the account and a copy of the will or trust instrument will be sent upon request or where copies of same are available for inspection, and that any persons who object to the transactions shown in the account must either (a) file written objections in conformity with Rule 6.10 prior to audit or (b) appear in person or by counsel at the audit under penalty that the court may otherwise assume that they have no objection; and

(2) the accountant's interpretation of any dispute known to the accountant, together with a copy of the instrument or material parts thereof containing any provision which forms the basis of the dispute, and a statement that if the person notified does not agree with the accountant's interpretation, he must appear at the audit in person or by counsel to present his contention; otherwise, Court will assume that he agrees with the accountant's interpretation; and

(3) unless shown in the account the amount of any commission claimed by the accountant and the amount of any attorney's fee claimed as due the accountant's attorney; and

(4) in case of notice to a claimant, the accountant's understanding of the nature of the claim; whether the claim is admitted or contested; if admitted, whether it will be paid in full or in part, and, if contested, that an appearance in person or by counsel must be made at the audit to press any such claim.

Rule 6.4. *Time for Filing.*

The first account of a personal representative shall not be filed until four months have elapsed from the date of the first complete advertisement of the original grant of letters, unless the personal representative has been directed by the court to file an account prior to that time.

L. 6.4 A For a Particular Audit List.

Accounts to appear on a particular audit list must be filed not later than the date shown on the Court Calendar.

Rule 6.5. Filing With Register of Wills.

The account of a personal representative shall be filed in the office of the Register of Wills.

Rule. 6.6. Filing With the Clerk of the Orphans' Court.

The following accounts shall be filed in the Office of the Clerk of the Orphans' Court:

- (a) an account of a trustee;
- (b) an account of a guardian of a minor;
- (c) an account of a guardian of an incompetent;
- (d) an account of a custodian under the Uniform Gifts to Minors Act.

L. 6.6 A Filing.

Accounts received by the clerk or by the register and found to violate any provision of these rules, will not be filed but will be returned to accountants or their counsel.

Rule 6.7. Filing Copy With the Department of Revenue.

A copy of every account filed by the fiduciary of the estate of a deceased person who was an inmate of a State-owned mental hospital or a home, asylum or other institution, wherein said inmate was maintained in part by the Commonwealth, shall be filed with the Department of Revenue.

Rule 6.8. Filing Copy With the United States Veterans' Administration.

A copy of every account filed by the fiduciary of the estate of a veteran of any war or of the estate of a minor child of such veteran, to which veteran or minor benefits of compensation or insurance or other gratuity is payable by the United States Veterans' Administration or its successor, shall be filed with the United

States Veterans' Administration or its successor.

Rule 6.9. Statement of Proposed Distribution.

(a) A fiduciary filing an account shall file a statement of proposed distribution, or, as local rules may prescribe, a request that distribution be determined by the court or an auditor.

(b) The statement of proposed distribution shall be filed at such place and time, shall be in such form and shall be accompanied by such papers, and shall be advertised or such notice thereof shall be given as local rules shall prescribe.

L. 6.9 A

The statement of proposed distribution shall be filed in the same office and at the same time the account is filed and shall appear at the end thereof. Notice thereof shall be given in the same manner and at the same time the account is advertised. Actual notice of the filing of the statement of proposed distribution shall be given the same persons who are entitled to notice of the filing of the account.

L. 6.9 B

If for any reason a fiduciary is unable to file a statement of proposed distribution, he may request, in the manner provided in these rules, the appointment of an auditor, or that distribution be made by the Court.

Rule 6.10 Objections to Accounts and Statements of Proposed Distribution.

Objections to an account or statement of proposed distribution shall be made or filed at such place and time, shall be in such form, and such notice thereof shall be given as local rules shall prescribe.

L. 6.10 A Objections to Accounts — Form.

Objections to accounts shall be in writing, numbered consecutively, signed by the objector or his attorney, and each objection shall

- (1) be specific as to description and amount;
- (2) raise but one issue of law and fact, but if there are several objections to items included in or omitted from the account relating to the same issue, all such objections shall be included in the same objection; and
- (3) set forth briefly the reason or reasons in support thereof.

L. 6.10 B *Objections to Accounts — Filing — Service of Copy.*

(1) *Time of Filing.* Objections may be filed as of course, with the clerk, on any day prior to the session of court when the account objected to is listed for audit, or at, but not later than, such session.

(2) *Service of Copy.* A copy of the objections shall be served without delay after filing, on accountant's attorney, in the manner provided in Rule L. 5.1 B.

L. 6.10 C *Objections to Accounts — Continued Audit.*

When objections to an account have been filed, the audit of the account may be continued, upon call of the audit list, to a day fixed by the court for auditing the account and hearing the objections.

L. 6.10 D *Audits and Claims.*

(1) *Audit List — When Called.* The audit list will be called on the dates set forth on the Court Calendar. Each audit list shall include accounts continued from previous audit lists, and new accounts eligible for audits.

(2) *Audit — Contested Claims.*

(a) *Audit of Account.* Whenever a claim against an estate is not admitted by accountant or is contested by any interested party, or when a question of law is submitted for adjudication, the account of that estate may be audited at the audit list at which the account is called for audit, or the claim or question of law and the audit may be heard at a later time to be fixed by the court.

(b) *Claimant's Statement.* The attorney for claimant shall file with the clerk, prior to audit or the hearing, a written

statement of all material facts relied upon and shall serve a copy thereof on the attorney for accountant or other contesting parties at least five days prior to the audit or hearing in the manner provided in Rule L. 5.1 B.

(3) *Disposing of Objections and Claims.* In those cases in which a hearing is requested, the Court may fix a day for hearing or argument.

L. 6.10 E *Attendance at Audits.*

Accountants, and those filing objections must attend audits or hearing at the time fixed therefor, unless excused by Court for cause shown, and furnish such information and produce such evidence as may be necessary to make proper disposition of objections and to make distribution to those entitled thereto.

L. 6.10 F

The advertisement of the list of accounts and statements of proposed distribution by the Clerk of the Orphans' Court shall contain the following:

(a) The name of the estate and the fiduciary.

(b) That an account and statement of proposed distribution have been filed in his office, or an account only, if such be the case.

(c) That the said account and statement of proposed distribution will be presented to the Court for audit and confirmation on a date certain.

L. 6.10 G *Audit Statements and Decrees of Distribution.*

An audit statement and decree of distribution shall be made on the forms available at the office of the Clerk of the Orphans' Court of Beaver County and shall be accompanied by such papers as shall be required by said form, and shall contain all information necessary for the Court to audit the account.

Rule 6.11. *Confirmation of Accounts. Awards.*

(a) No account shall be confirmed or statement of proposed distribution approved until an adjudication or a decree of distribution is filed, in conformity with

local rules, by the court or by the clerk of the court, expressly confirming the account or approving the statement of proposed distribution and specifying, or indicating by reference to the statement of proposed distribution, the names of the persons to whom the balance available for distribution is awarded and the amount or share awarded to each of such persons.

(b) Except where otherwise provided by a rule adopted by the Supreme Court or by an Act of Assembly, any distribution made by a fiduciary shall be made at his own risk unless directed by an adjudication, decree of distribution or order of the court.

L. 6.11 A Filing Receipt and Releases.

When any distribution is made pursuant to Rule L. 6.11 B(b), a fiduciary may file with the Clerk, those documents which evidence the agreement pursuant to which distribution is made and the receipt thereof.

L. 6.11 B Schedules of Distribution.

(a) *Filing.* The attorney for accountant will prepare and file with the audit statement a schedule of distribution which shall be certified by the attorney for the accountant to be correct.

(b) *Additional Receipts and Disbursements.* Receipts and disbursements since the date to which the account was stated shall be set forth in the schedule of distribution.

(c) *Objections.* Objections to audit statement or to decree of distribution shall be filed with the Clerk, and may be filed not later than the tenth day after Audit. Such objections may raise questions relating only to the decree and shall in no event raise questions which actually were or could have been raised previously, by claims or by objections to the account.

(d) *Confirmation.* If no objections are filed within ten days after audit, it will be approved. Thereupon the accountant shall have authority to make necessary assignments and transfers of any securities awarded in kind.

L. 6.11 C Schedules of Distribution — Notice of Filing.

(a) When Notice Given.

(1) Notice of filing the decree of distribution shall be given to all parties in interest affected thereby only when the schedule contains:

(i) items of additional receipts or disbursements not included in the account or,

(ii) distribution of assets which were awarded in kind in the proposed distribution but which were neither specifically bequeathed to the distributee nor elected by him to be taken in kind or which were revalued.

The notice shall state that no objection may be filed later than the tenth day after audit.

(b) *Time of Notice.* Such notice shall be given before audit by letter addressed to the last known address of the party in interest or his attorney.

(c) *Return of Notice.* It shall be a sufficient return to such notice for the attorney or accountant to certify on the schedule that due notice of the filing thereof was given as required by this rule.

L. 6.11 D Objections to Schedules of Distribution — Notice of Filing, Time, Method, and Return.

(a) *To Whom Given.* Notice of filing of objections to the decree of distribution shall be given to the accountant and to all parties in interest affected thereby or their attorneys.

(b) *Time and Method of Notice.* Written notice shall be given no later than the day of the filing of the objections to the decree by letter addressed to the last known address of accountant and all other parties in interest affected thereby or their attorneys. A copy of the objections shall be included with the notice to the accountant or his attorney.

(c) *Return of Notice.* At the time of the filing of the objections, the attorney for the objector shall file a written certification that due notice of the filing thereof was given as required by these rules.

L. 6.11 E Distribution of Real Estate.

(a) *When No Partition or Allotment Required or When Dis-*

tributees Agree to Schedule. Decrees of distribution shall include separate awards of real estate to the parties entitled thereto, whether individually, or, where the circumstances require, in undivided interests. The real estate so awarded shall be identified with the same particularity as is commonly required to be included in deeds and shall recite how the title was acquired by decedent.

L. 6.11 F Settlement of Small Estates.

Form of Petitions. Contents. Petitions under Probate Estates and fiduciaries Code §3102 for distribution of small estates shall set forth:

1. The name and address of the petitioner and his relationship to the decedent.

2. The name, date of death and domicile of decedent, whether he died testate or intestate, the dates of the probate of the will and of the grant of letters if any and whether the personal representative has been required to give bond, and in what amount.

3. The names and relationships of all beneficiaries entitled to any part of the estate under the will or intestate laws, a brief description of their respective interests, whether any of them has received or retained any property of the decedent by payment of wages under Probate, Estates and Fiduciaries Code §3102, or otherwise, and whether any of them are minors, incompetents or deceased with the names of their fiduciaries, if any.

4. The person or persons, if any, entitled to the family exemption and, if a claim therefor is made in this petition, any additional facts necessary to establish the prima facie right thereto, as required by Rule 12.1.

5. An inventory of the real and personal estate of the decedent, with values ascribed to each item, either incorporated in the petition or attached as an exhibit.

6. A list showing the nature, amount and preference of all unpaid claims against the estate and indicating which are admitted.

7. If any unpaid beneficiary, heir, or claimant has not joined

in the petition, a statement that twenty days' notice of intention to present the petition has been given in accordance with these rules.

8. A prayer for distribution of the personal property to those entitled, and in appropriate cases for the discharge of the personal representative.

Exhibits. There shall be attached to the petition the following exhibits:

1. The original of the decedent's will if it has not been probated, or a copy of the will if it has been probated.

2. Joinders of unpaid beneficiaries, heirs and claimants insofar as they are obtainable.

3. An itemized list of disbursements made prior to the filing of the petition, indicating the payor and whether the disbursements were in payment of administration expenses, preferred or ordinary debts, item of distribution or the family exemption.

4. Certificate of register of wills showing status of the inheritance tax.

Appraisements. No appraisal shall be required unless ordered by the court.

RULE 6.12. STATUS REPORT BY PERSONAL REPRESENTATIVE

(a) The personal representative of each resident decedent dying after July 1, 1984, or counsel for the estate shall file a report of the status of the administration of the estate with the Register for transmission to the Court no later than the due date for filing the inheritance tax return for the estate or, if no inheritance tax return is required, nine months after the date of death. If the administration of the estate has not been concluded, similar reports shall be filed annually thereafter until the administration is complete. Each report shall indicate whether or not the administration of the estate has been concluded, the total value of assets that have been distributed to beneficiaries and

the total amount paid to creditors or applied for funeral and expenses of administration and, if the administration has not yet been concluded, the estimated value of the assets still under administration. If the administration of the estate has been concluded, the report shall also indicate whether a final account of the administration of the estate has been filed with the Court and, if not, whether an account was stated to the parties in interest and whether they have approved the same.

(b) If any required report is not filed when due, the Register shall notify counsel for the estate, if any, and shall periodically submit to the Court, for transmission to the Court Administrator of Pennsylvania, a list of all counsel of record in estates where the report has not been filed and more than sixty (60) days have elapsed since mailing of the notice of delinquency.

(c) No fees shall be charged for filing the reports required by this rule.

(SAMPLE FORM)

REGISTER OF WILLS OF _____ COUNTY
STATUS REPORT BY PERSONAL REPRESENTATIVE
No. _____

Name of Decedent: _____ Soc. Sec. No. _____

Date of Death: _____

Name of Personal Representative(s): _____

Capacity (check one) Executor _____
Administrator _____
Administrator e.t.a _____
Administrator d.b.n. _____

Is the administration of the estate complete?

Yes ____ No ____

If "yes," how was the administration ended?

(check one)

By court accounting _____
By account stated to parties in interest _____
Did the parties release the personal
representative? _____
Other (explain) _____

Total amount paid to date to creditors and for
funeral and administrative expenses \$ _____

Total value of distributions to date to
beneficiaries \$ _____

If administration is not complete, estimated
value of assets still in administration \$ _____

I certify under penalty of perjury that the foregoing
information is correct to the best of my knowledge,
information and belief.

Date: _____, 19__

(Print or type name below signature and indicate
whether personal representative or counsel).

This report must be signed by the personal representative or one of them when more than one, or by counsel for the estate.

Adopted Dec. 21, 1983, effective Jan. 1, 1984.

RULE 7. EXCEPTIONS

Rule 7.1. Exceptions

Exceptions shall be filed at such place and time, shall be in such form, copies thereof served and disposition made thereof as local rules shall prescribe.

L. 7.1 A Exceptions to Decrees — Generally.

No exceptions shall be filed to orders or decrees entered in proceedings unless the right to except thereto is expressly conferred by act of assembly, by general rule, or by special order; and all decrees other than those to which exceptions are so allowed to be taken, shall be final and definitive.

L. 7.1 B Post Trial Relief.

Specific exceptions to any decree or order of the Court must be filed with the Clerk of the Orphans' Court within ten days after the entry of a decree or order in accordance with Pa.R.C.P. 227.1.

RULE 8. AUDITORS AND MASTERS

Rule 8.1. Notice of Hearings.

An auditor or master shall give notice of hearings held by him in such manner, and to such parties as local rules shall prescribe.

L. 8.1 A Local Rule Notice.

Auditors and masters shall give notice of hearings held by them to all parties interested, or to their attorneys of record in writing at least ten (10) days prior thereto.

Rule 8.2. Filing of Report.

An auditor or master shall file his report within ninety days after his appointment, unless, upon application, the court extends the time; and, in default thereof, his appointment may be vacated and compensation and reimbursement for services and expenses denied.

Rule 8.3. Form of Auditor's Report.

An auditor's report shall include a statement of the questions involved, findings of fact, conclusions of law, and, if the account is approved by the auditor, it shall also expressly confirm the account and shall specify, or indicate by reference to the statement of proposed distribution, the names of persons to whom the balance available for distribution is awarded and the amount or share awarded to each such persons.

Rule 8.4. Form of Master's Report.

A master's report shall state the number, times, dates and duration of the hearings before him, the number, extent and causes of any delays or continuances, and the basis of the court's jurisdiction, and shall include a statement and discussion of the questions involved, findings of fact and conclusions of law, and specific recommendations.

Rule 8.5. Transcript of Testimony.

The transcript of testimony taken before an auditor or master shall be filed with his report.

Rule 8.6. Notice of Filing Report

An auditor or master shall give notice of the filing of his report or of the intention to file his report in such manner and to such parties as local rules shall prescribe.

L. 8.6 A Objections.

The auditor or master shall notify all parties of the filing of

his report and furnish all parties a copy thereof.

Any party in interest shall have the right to file objections to an auditor's or to a master's report within ten (10) days of the filing thereof. If objections are filed the matter shall go on the argument list.

Rule 8.7. Confirmation of Report.

(a) The report of an auditor shall be confirmed in such manner as local rules shall prescribe.

(b) The report of a master shall not be approved until a decree is entered adopting its recommendations.

L. 8.7 A Decree.

If no objections are filed within ten (10) days of the filing thereof, the Court may enter a decree confirming the auditor's report or adopting the master's report.

Rule 8.8. Security for Expenses and Fees.

An auditor or master, the accountant or any party in interest may apply to the court at any time for leave to require security for the payment of the auditor's or master's expenses and fees, and, when such leave is granted, the auditor or master may decline to proceed until security is entered.

RULE 9. OFFICIAL EXAMINERS

Rule 9.1. Appointment of Official Examiners.

The court by general rule or special order may appoint an official examiner or examiners who shall examine the assets held by any fiduciary in his fiduciary capacity whenever directed by the court.

RULE 10. REGISTER OF WILLS

Rule 10.1. Procedure and Forms.

The practice, procedure and forms used before a Register of Wills shall be in substantial conformity with

the practice, procedure and forms approved by the Supreme Court of this Commonwealth or, in the absence thereof, the practice, procedure and forms approved by the local Orphans' Court Division.

Rule 10.2. Appeals from the Register of Wills.

Appeals from judicial acts or proceedings of the Register of Wills and the practice and procedure with respect thereto shall be as prescribed by local rules.

L. 10.2 A

No appeal from any judicial act or decision of the Register of Wills will be considered by the Court unless such appeal has been first filed with the Register, the security as required by the Acts of Assembly has been duly entered, and the record of proceedings had before him, has been duly certified by the Register and filed in Court.

L. 10.2 B

In all cases where any party in interest shall have properly taken an appeal from a judicial act or decision of the Register, the appellant shall present a petition to the Court within 30 days thereafter (unless the time be extended by Order of Court) setting forth what has been done and the facts and the basis for the appeal. If such facts and reasons appear to be prima facie sufficient, a citation will be granted on all parties in interest (whose names must be set forth in the petition and in the decree) to show cause why said appeal should not be sustained.

RULE 11. JURY TRIALS

Rule 11.1. Selection of Jurors.

When any issue is to be tried by a jury in the Orphans' Court Division, a request shall be made to the Trial or Civil Division of the Court of Common Pleas of the county for a panel of jurors. A jury shall be selected from this panel and if additional jurors are required they shall be similarly obtained on request to the Trial or Civil Division of the Court of Common Pleas.

Rule 11.2. Conduct of a Trial.

The selection of a jury, the conduct of a trial and motions after trial shall conform to the practice and procedure in jury trials in the local Court of Common Pleas.

RULE 12. SPECIAL PETITIONS

Family Exemptions

L. 12 A Procedure — By or Without Petition.

The procedure for the family exemption under Sections 3121-3126 of the Probate, Estates and Fiduciaries Code may be by petition to the Court in any case, and must be by petition in all cases not within Rules L. 12 B and L. 12 C infra.

L. 12 B Voluntary Distribution.

When the personal representative at his own risk, delivers or permits to be retained assets of the estate in satisfaction or partial satisfaction of the exemption he shall set forth the same as a credit in the account.

L. 12 C Without Petition. Award in Adjudication.

When the person entitled thereto claims the exemption but payment or delivery thereof is not to be made until distribution of the estate is awarded by the Court upon the personal representative's account, the award thereof will be included in the distribution. Such request may be made by the personal representative, when written claim for the exemption has been made to him, and may then be included in the distribution.

Rule 12.1. Family Exemption

(a) A petition for a family exemption shall set forth

(1) facts establishing a prima facie right of the petitioner to the exemption;

(2) if the exemption is claimed from real estate, a request for the appointment of two appraisers to appraise the same;

(3) a description of the property claimed; and

(4) whether allowance of the claim prior to the audit or confirmation of the account is requested.

(b) The manner of appraising the property, of filing and confirming the appraisal, and of advertising or giving notice thereof shall be prescribed by local rules.

(c) The court may, at the request of the petitioner, award in distribution, specific real estate included in the account in satisfaction of, or on account of, the family exemption without the necessity of compliance with the procedure outlined in subparagraphs (a) and (b) of this rule, provided, however, that all parties in interest agree in writing to the valuation at which the real estate is to be awarded.

L. 12.1 A When Appraisal Unnecessary.

Unless otherwise directed by the Court, no appraisal shall be required if the exemption is claimed

(1) in money;

(2) from personal property and the gross value of the decedent's estate does not exceed the amount of the exemption:

(3) in real or personal property at valuations agreed upon by all parties in interest.

L. 12.1 B When Appraisal Necessary.

(1) *Personal Property.* When personal property is claimed and an appraisal is necessary the Court will direct the appraisement to be made by special order in each case.

(2) *Real Property.* When real property is claimed and an appraisal is necessary, it shall be made by two appraisers appointed by the Court as outlined in Section 3123 of the Probate, Estates and Fiduciaries Code.

L. 12.1 C Notice.

(1) *When No Petition.* When the procedure is without petition, no notice other than that to the personal representative need be given of the claim for exemption.

(2) *When Petition Filed.* When the procedure is by petition, notice of the filing thereof, and of the date fixed by the court

for confirmation and allowance, shall be given by

(a) *Actual Notice* to the personal representative, if any, and to all persons other than creditors adversely affected by allowance of the exemption who do not join in the prayer of the petition, and by

(b) *Advertisement* once a week for two successive weeks in the *Beaver County Legal Journal* and in the newspaper of general circulation which is designated by the Court in the preliminary decree.

(3) *After Appraisalment*. When it is necessary for the Court to appoint appraisers, the notice shall be given after the appraisalment has been made and filed.

L. 12.1 D Objections

(1) *Voluntary Distribution*. Questions regarding disbursements claimed in the personal representative's account for assets delivered or permitted to be retained for or on account of the exemption may be raised only by objections to the account.

(2) *At Audit*. Objections to exemption claimed at the audit may be made orally, but shall subsequently be reduced to writing.

(3) *When Petition Filed*. When the procedure is by petition, questions as to the appraisalment or allowance, or both, may be raised only by objections filed with the clerk on or before the time fixed for confirmation and allowance.

(4) *Higher Bid*. Objections which relate only to the amount of the appraisalment will be dismissed unless a definite and bona fide higher bid for the property is made, or facts warranting consideration by the Court appear.

L. 12.1 E Final Decree.

When the procedure is by petition, if no objections are filed on or before the time fixed in the preliminary decree, confirmation of the appraisalment and allowance of the exemption may be obtained by submitting to the Court the return to notices and a form of final decree.

Rule 12.2. Allowance To Surviving Spouse of Intestate.

(a) When no account is filed and all or part of the spouse's statutory allowance is claimed from real estate, the claim shall be presented by petition, which shall set forth.

(1) facts establishing a prima facie right of the spouse to the allowance;

(2) a description of the real estate; and

(3) a request for the appointment of two appraisers to appraise the real estate.

(b) The manner of appraising the property, of filing and confirming the appraisal, and of advertising or giving notice thereof shall be prescribed by local rules.

(c) The court may, at the request of the surviving spouse, award specific real estate in satisfaction of, or on account of, the spouse's statutory allowance without compliance with the procedure outlined in subparagraphs (a) and (b) of this rule if all parties in interest agree in writing that the surviving spouse is entitled to the allowance and to the valuation at which the real estate is to be awarded.

L. 12.2 A Appraisal of Property.

If an appraisal of property is needed, the manner of appraising the property, of filing and confirming the appraisal, and of advertising or giving notice thereof shall be by special Order in each case.

Rule 12.3. Revocation, Vacating and Extension of Time For Filing of Surviving Spouse's Election.

(a) A petition to revoke or vacate an election of a surviving spouse to take under or against the will and other conveyances of the decedent shall set forth

(1) the date of the decedent's death, whether his will has been probated and, if so, a reference to the place of recording;

(2) the name and capacity of the fiduciary of the

decedent's estate, if any, and a reference to the record of his appointment;

(3) the names, addresses and relationship, if known, of those interested in the estate and the extent of the interest of each of them;

(4) the names of the parties in interest who have consented to the revocation or vacating of the election, and the names of those who have not consented and the reason, if any, for so refusing;

(5) a description and valuation of the decedent's real and personal property affected by the election;

(6) the date and manner of executing the election desired to be revoked or vacated; whether the same has been recorded, registered or filed, and if so, the date and place thereof;

(7) whether the surviving spouse has made or executed and delivered at any place an election contrary to that desired to be revoked or vacated and whether that election has been recorded, registered or filed, and if so, the date and place thereof;

(8) the facts relied upon to justify the revocation or vacating of the election; and

(9) a request for a citation upon the parties in interest who have not joined in the petition or who have not consented thereto to show cause why the election should not be revoked or vacated.

(b) A petition for the extension of the time in which the surviving spouse may file an election to take against the will and other conveyances shall be filed at such place and time and shall be in such form as local rules may prescribe.

L. 12.3 A Extension of Time, Local Rule.

A petition for the extension of time in which the surviving spouse may file an election to take against the will shall include the requirements for a petition under Rule 12.3.

Rule 12.4. Appointment of a Guardian Ad Litem or a Trustee Ad Litem.

(a) On petition of the accountant or any party in interest, or upon its own motion, the court may appoint (1) a guardian ad litem to represent a minor or an incompetent not represented by a guardian or (2) a trustee ad litem to represent an absentee, a presumed decedent, or unborn or unascertained persons not already represented by a fiduciary, unless the court considers that the interest of such persons are adequately represented.

(b) The same person may be appointed as guardian ad litem and trustee ad litem when the interests represented are not conflicting. Application for such an appointment may be made in one petition.

(c) The petition shall set forth:

(1) the name, age and address of the minor or incompetent for whom a guardian ad litem is to be appointed and his relationship, if any, to any party in interest and to the decedent or settlor; and

(2) the interest of the minor, incompetent, absentee, presumed decedent, or the unborn or unascertained interests to be represented by a guardian ad litem or a trustee ad litem, the provisions of any instrument creating such interests, the necessity for such interests being represented and the proceedings in which they are to be represented.

(d) A decree appointing a guardian ad litem or a trustee ad litem shall specify the period or proceedings during which he shall act as such.

Rule 12.5. Appointment of a Guardian For the Estate or Person of a Minor.

(a) A petition for the appointment of a guardian for the estate or person of a minor shall be filed by the minor, if over fourteen years of age and, if under such age, by his parent or parents, the person with whom he resides or by whom he is maintained or by any per-

son as next friend of the minor.

(b) The petition shall set forth

(1) the name, address and age of the minor, and the names and address of his parents, if living;

(2) the name, address and relationship to the minor of the petitioner, if the petition is not filed by the minor;

(3) that the minor's parents consent to the petition, if it is not filed by them, or the reason why they do not consent;

(4) the necessity of the appointment of a guardian and that the minor has no guardian or that a guardian already appointed has died or has been discharged or removed by the court, together with the date of such death, discharge or removal and a reference to the court record of such discharge or removal;

(5) the name, address and age of the proposed guardian and his relationship to the minor, if any;

(6) the nature of any interest of the proposed guardian adverse to that of the minor including inter alia a reference to any estate in which the minor is interested and in which the proposed guardian is a fiduciary or surety or employee of a fiduciary or surety therein.

(7) if the petition is for the appointment of a guardian of the person, the religious persuasion of the parents of the minor and of the proposed guardian;

(8) if the petition is for the appointment of a guardian of the estate, an itemization of the assets of such estate, their location, approximate value and income, if any;

(9) if the minor is entitled to receive any money as a party to any action or proceeding in any court, a reference to the court record and the amount to which the minor is entitled; and

(10) that notice has been given to the United States Veterans' Administration or its successor, if the minor is the child of a veteran and insurance or other gratuity

is payable to him by the United States Veterans' Administration, or its successor.

(c) The proposed guardian's written consent to the appointment shall be attached to the petition.

(d) If the appointment of the same person is requested as guardian of the estates or persons of several minors who are children of the same parents, a single petition shall be filed for such appointment.

(e) If the minor is over the age of fourteen his appearance in court at the time of the presentation of the petition shall be governed by local rule.

L. 12.5 A *Appearance at Presentation of Petition.*

The appearance of the minor in Court shall be necessary in all cases involving appointment of a guardian of the person or the estate unless excused by the Court.

L. 12.5 B *Minor's Estate. Restricted Accounts. Waiver of Bond.*

In lieu of the entry of bond, the Court in appropriate cases may authorize the guardian to deposit the funds of the minor in an interest-bearing deposit in a Federally insured financial institution in accordance with the provisions of Probate, Estates and Fiduciaries Code §5103, subject to the express restriction, to be noted on the records of the institution, that no withdrawals shall be made therefrom without Order of Court, and that the evidence of the deposit or investment, marked to indicate the restriction, shall be promptly exhibited to the clerk. If the funds of the minor are ten thousand (\$10,000) dollars or less, the requirements of the bond will be waived unless specially required by the Court. The Court may also waive the requirement of a bond in such other cases as the Court, for cause shown, finds that no bond is necessary.

L. 12.5 C *Minor's Estate. Guardian. Certificate of Appointment. Security.*

If bond is required of a guardian, the clerk shall not issue the certificate of his appointment until the bond and surety have been approved by the Court. Where the guardian is

appointed for several minors of the same parents, one bond may be filed to cover the several estates.

L. 12.5 D Minor's Estate. Allowances.

When a petition is necessary for an allowance from a minor's estate, the petition shall set forth:

(1) the manner of the guardian's appointment and qualification, and the dates thereof;

(2) the age and residence of the minor, whether his parents are living, the name of the person with whom he resides, the name and age of his spouse and children, if any;

(3) the value of the minor's estate, real and personal, and the net annual income;

(4) the circumstances of the minor, whether employed or attending school; if the minor's father, or other person charged with the duty of supporting him, is living, the financial condition and income of such person and why he is not discharging his duty to support the minor; and whether there is adequate provisions for the support and education of the minor, his spouse and children;

(5) the date and amount of any previous allowance by the court; and

(6) the financial requirements of the minor and his family unit, in detail, and the circumstances making such allowance necessary.

Rule 12.6. Appointment of Trustee.

(a) A petition for the appointment of a trustee may be filed by any party in interest and shall set forth

(1) the reason for filing the petition;

(2) the provisions of the instrument creating the trust;

(3) the general character, location and value of the trust property;

(4) the names, addresses and relationships of all parties in interest and that those who have not joined in or consented to the petition have been given notice of the intention to file the petition, or the reason for

failing to give such notice; and

(5) the name and address of the proposed trustee and his relationship, if any, to any party in interest and his interest, if any, in the trust.

(b) The proposed trustee's written consent to the appointment shall be attached to the petition.

L. 12.6 A Appointment of Trustee. Exhibits.

The following exhibits shall be annexed to the petition:

(1) a copy of the trust instrument; and

(2) any consents or joinders of parties in interest.

Rule 12.7. Discharge of a Fiduciary and Surety

(a) *Account Previously Filed.* A petition for the discharge of a fiduciary and his surety, or of the surety alone, subsequent to an account having been filed and confirmed, shall set forth

(1) the nature of the fiduciary capacity;

(2) the date and reference to the record of the fiduciary's appointment;

(3) the date of filing the fiduciary's account and that it has been confirmed absolutely; and

(4) that the entire estate has been distributed to the creditors and parties thereto and that no other property belonging to the estate has been received or remains to be accounted for by the fiduciary.

(b) *Account Annexed.* In lieu of filing and advertising an account, a personal representative who is distributing an estate under the provisions of Section 3531 of the Probate, Estates and Fiduciaries Code, or the guardian of the estate of a minor who has attained his majority and whose gross estate does not exceed the statutory limitation of an administration without appointment of a guardian, may annex his account to the petition for discharge with the information required above, modified to indicate any previous distribution and to suggest the proper distribution of any balance on hand.

L. 12.7 A Discharge of Fiduciary — Exhibits.

Written consent of the surety, if any, shall be attached to the petition, and orders to satisfy awards from all other parties shall be submitted therewith.

L. 12.7 B Discharge of Personal Representative. Sec. 3531 of Probate, Estates and Fiduciaries Code.

A petition with account annexed for the discharge of a personal representative under Rule 12.7 shall also conform as far as practicable to the requirements of a petition under Rule 6.11 D for the settlement of a small estate under the provisions of Sec. 3102 of Probate, Estates and Fiduciaries Code.

Rule 12.8. Partition

A petition for partition shall set forth

(a) the date of the decedent's death and whether he died testate or intestate, in whole or in part;

(b) a description, giving the size and location, of the property to be partitioned, the liens and charges to which it is subject and the rents due from tenants thereof, and that the property has not been partitioned or valued for partition;

(c) the names, addresses and relationship of those interests in the land to be partitioned, the extent of the interest of each of such persons, and, if such interest is created by a recorded deed or will, a reference to such record; and

(d) a request for a citation upon the parties in interest who have not joined as petitioners to show cause why an inquest should not be granted.

Rule 12.9 Public Sale of Real Property

(a) A petition for the public sale of real property shall set forth the reason for filing the petition, a description, stating the size and location of the property to be sold, and the liens and charges to which it is subject.

(b) Public notice of the sale shall be given as required by law and as may be further required by the court by

general rule or special order.

L. 12.9 A Public Sale. Contents of Petition. Additional Requirements.

(1) *Personal Representative.* When it is required that a personal representative petition the court to sell real property at public sale, the petition (in addition to requirements of Rule 12.9) shall also set forth in separate paragraphs:

(a) the name, residence and date of death of the decedent; whether he died testate or intestate; and the date of the grant letters;

(b) that the personal representative is not otherwise authorized to sell by the Act; or is not authorized or is denied the power to do so by the will, or that it is desirable that the sale have the effect of a judicial sale, stating the reasons;

(c) whether an inventory and appraisal has been filed; the total value of the property shown therein; and the value at which the real property to be sold was included therein;

(d) if the personal representative entered bond with the Register, the name of the surety and the amount of such bond;

(e) the names and relationships of all parties in interest, a brief description of their respective interests; whether any of them are minors, incompetents or deceased, and if so, the names of their fiduciaries, if any;

(f) the improvements on the property, by whom it is occupied, its rental value and current tax assessment; and

(g) sufficient facts to enable the court to determine that the sale is desirable for the proper administration and distribution of the estate.

(2) *Trustee.* When it is required that a trustee petition the court to sell real property at public sale, the petition (in addition to requirements of Rule 12.9) shall also set forth in separate paragraphs:

(a) how title was acquired, stating the date and place of probate of the will or recording of the deed;

(b) a recital of the relevant provisions of the will or deed pertaining to the real property to be sold, and of the history of

the trust;

(c) the names and relationships of all parties in interest; a brief description of their respective interests; whether any of them are minors, incompetents or deceased, and if so, the names of their fiduciaries, if any;

(d) the improvements of the property, by whom it is occupied, its rental value and current tax assessment;

(e) that the trustee is not otherwise authorized to sell by the Act, or is denied the power by the trust instrument; or that it is advisable that the sale have the effect of a judicial sale, stating the reason; and

(f) sufficient facts to enable the court to determine that the proposed sale is for the best interests of the trust.

(3) *Guardian*. When it is required that a guardian petition the court to sell real property at public sale, the petition (in addition to requirements of Rule 12.9) shall also set forth in separate paragraphs:

(a) the age of the ward;

(b) the names of his next of kin and the notice given them of the presentation of the petition. When there are not known next of kin who are sui juris to whom notice may be given, public notice in accordance with Rule 12.9 C (1) must be given and proofs thereof must be attached to the petition as an exhibit;

(c) how title was acquired, stating the date and place of probate of the will or recording of the deed;

(d) a recital of the provisions of the will or deed relating to the real property to be sold;

(e) the nature and extent of the interest of the ward, and of other persons in the real property;

(f) the improvements on the property, by whom it is occupied, its rental value and current tax assessment; and

(g) sufficient facts to enable the court to determine that the proposed sale will be for the best interest of the ward.

L. 12.9 B Public Sale. Exhibits.

The following exhibits shall be attached to a petition by a

personal representative, trustee or guardian, to sell real property at public sale:

(1) a copy of the will, deed, or decree by which the fiduciary was appointed; and

(2) any consents or joinders of parties in interest, and the names and a copy of the notice which has been given to those parties who do not consent or join; and

(3) consent by any mortgagee whose lien would otherwise not be discharged by the sale.

L. 12.9 C Public Sale of Real Property. Notice. Return

(1) *Notice*. After the allowance of a petition for public sale, public notice of the proposed sale shall be given by advertisement once a week for two successive weeks in the *Beaver County Legal Journal* and in one other newspaper of general circulation in Beaver County and by posting a notice on the premises, and as far as possible, at least ten days' prior notice of the time and place of the proposed sale shall be given to all parties in interest, by personal service or registered mail.

(2) *Return*. Returns of public sale of real property for the purpose of approval or confirmation by the Court shall be in the form of an affidavit, which shall set forth

(a) the price obtained; and

(b) the name and address of the purchaser and that he was highest bidder.

L. 12.9 D Public Sale. Security.

On the return day of the sale, the court, in the decree approving or confirming the sale, will fix the amount of bond of additional security which the personal representative, trustee or guardian shall be required to enter, or will excuse the fiduciary from entering additional security.

Rule 12.10. Private Sale of Real Property or Options Therefor.

(a) A petition for the private sale or exchange of real property, or for the grant of an option for any such sale

or exchange shall set forth

(1) the information required in a petition for the public sale of real property; and

(2) the name and address of the proposed purchaser and the terms of the proposed sale, exchange or option, the consideration therefor, and that this is more than can be obtained at public sale.

(b) The petition shall be supported by the affidavits of at least two competent persons setting forth that they have inspected the real property to be sold, exchanged or optioned and, in the case of an exchange, the property to be received, that they are acquainted with the value of real estate in the locality of such property, that they are not personally interested in the proposed sale, exchange or option, and that in their opinion the proposed consideration is more than can be obtained at public sale.

L. 12.10 A Private Sale, Exchange or Option. Exhibits.

(1) *Personal Representative, Trustee, Guardian.* The following exhibits shall be attached to the petition by a personal representative, trustee, or guardian, to sell real property at private sale or to exchange real property or give an option therefor:

(a) a copy of the will, deed, or decree by which the fiduciary was appointed;

(b) any consents or joinders of parties in interest and the names and a copy of the notice which has been given to those parties who do not consent to join;

(c) a copy of the agreement of sale or exchange or option agreement; and

(d) affidavits as to value as to the property to be optioned or exchanged or sold and, in the case of an exchange, of the property to be received, made by two real estate appraisers.

L. 12.10 B Procedure

(1) *Private Sale.* Whenever on the day fixed for approval of a private sale a person other than the proposed purchaser named

in the petition, or more than one such other person, shall appear for the purpose of offering a higher price than that to be paid by the proposed purchaser named in the petition, the following procedure shall be followed unless otherwise directed by the Court:

(a) No offer from any proposed purchaser other than the one named in the petition will be considered unless it is at least \$500 higher and is payable in cash.

(b) If one or more interested purchasers other than the proposed purchaser named in the petition do appear and state their willingness to offer at least \$500 more, the Court will conduct an informal auction. The proposed purchaser named in the petition and all other interested purchasers shall have the opportunity to make offers at least \$500 higher than the offer of the original proposed purchaser, until the highest price offered by any interested purchaser shall be determined.

(c) The Court will then entertain the highest offer made by an interested purchaser and will enter an appropriate decree.

(2) *Option for Private Sale.* Part (a) of this rule shall apply to the approval of grant of an option for private sale, and in addition to the provisions of clause (1) thereof, the other proposed purchaser must also offer a consideration for the option itself which is at least \$500 higher and is payable in cash.

(3) *Private Exchange.* The procedure in the event another person appears, on the day fixed for approval of an exchange, for the purpose of offering a different consideration, shall be as the Court directs by special order.

L. 12.10 C Private Sale, Exchange or Option.

The Court, in the decree approving or confirming the sale, exchange, or grant of option, will fix the amount of bond or additional security which the personal representative, trustee or guardian shall be required to enter, or will excuse the fiduciary from entering bond or additional security.

L. 12.10 D Petition to Fix or Waive Additional Security. Personal Representative, Trustee.

(a) *Form of Petition.* In a sale, whether public or private, of

real estate by a personal representative or trustee without benefit of an order of court directing or authorizing such sale, where he was required to give bond as such personal representative or trustee, he shall present his petition to the court before the proceeds of the sale are paid to him by the purchaser, setting forth:

- (1) the date of death of the decedent;
- (2) the date of the petitioner's appointment;
- (3) the amount of the bond or bonds filed by him and the date of such filing and the name or names of his surety;
- (4) the total valuation of the personal estate as shown in the inventory and appraisal, if any; and the total proceeds of any real estate sold previously;
- (5) a short description of the real property sold, the name of the purchaser and the amount of the consideration to be paid; and

(6) a prayer for an order fixing the amount of additional security or for an order excusing him from filing additional security, as the case may be.

(b) *Surety on Additional Bond.* The surety on any additional bond except for cause shown shall be the same as on the original bond.

Rule 12.11. Mortgage or Lease of Real Property

A petition to mortgage or lease real property shall set forth

- (a) the information required in a petition for the public sale of real property, as nearly as may be; and
- (b) the name of the proposed mortgagee or lessee and the terms of the proposed mortgage or lease.

L. 12.11 A Mortgage of Real Property. Additional Requirements or Lease.

(a) *Contents of Petition.* A petition to mortgage or lease real property by a personal representative, trustee or guardian, shall conform as closely as practicable to the requirements of these Rules with regard to a petition to sell real property at

public sale; shall set forth the amount and terms of the proposed mortgage loan or terms of lease; and shall set forth sufficient facts to enable the court to determine whether the proposed mortgage or lease should be approved.

(2) *Exhibits.* The following exhibits shall be attached to the petition:

(a) a copy of the will, deed, or decree by which the fiduciary was appointed.

(b) any consents or joinders of parties in interest, and the names and a copy of the notice which has been given to those parties who do not consent or join.

(3) *Security.* The amount of the bond or additional security required to be entered, or the waiver thereof, will be determined by the court in its decree approving the proposed mortgage or lease.

Rule 12.12. Inalienable Property

A petition under Chapter 83 of the Probate, Estates and Fiduciaries Code to sell real property at public or private sale or to mortgage real property shall set forth, in addition to the facts required to be set forth by that Act,

(a) the names of all parties in interest who have not joined as petitioners, and their addresses, if known; and

(b) if the petition is for the public or private sale of real property subject to a life estate with remainder over and the real property is not held in trust, the petition shall request the appointment of a named trustee to make the sale and hold the proceeds in trust.

Rule 12.13. Designation of a Successor Custodian

A petition for the designation of a successor custodian under the Pennsylvania Uniform Gifts to Minors Act shall set forth as far as practicable the information required in a petition for the appointment of a guardian of the estate of a minor.

Rule 12.14. Confirmation of Appointment of Trustee

(a) Where a trustee is appointed by or pursuant to a trust instrument, confirmation by the court of such appointment may be obtained on petition which shall set forth

- (1) the reason for filing the petition; and
- (2) the pertinent provisions of the instrument creating the trust and providing for the appointment of the trustee.

(b) There shall be attached to the petition.

- (1) a copy of the trust instrument duly certified by counsel to be a true and correct copy; and
- (2) the designated trustee's written consent to serve.

RULE 13. DISTRIBUTION — SPECIAL SITUATIONS

Rule 13.1. Representation by Counsel.

A foreign distributee or claimant may be represented by counsel who possesses a valid duly authenticated power of attorney executed by the distributee or claimant.

Rule 13.2. Existence and Identity.

If it appears that the decedent may have heirs in a foreign country but their location, existence or identity is unknown, the fiduciary shall notify the consulate of the country prior to audit of such facts as the fiduciary has which led him to the belief that the decedent may have had heirs in the country in question.

Rule 13.3 Report by Fiduciary.

Whenever the existence, identity or whereabouts of a distributee is unknown or it appears that a distributee may not have the actual benefit, use, enjoyment or control of the money or other property if awarded to him or the court is requested to withhold distribution or to make an award other than to the distributee or his

nominee, the fiduciary or his counsel shall submit to the court or auditor, as the case may be, a written report outlining the investigation made by him and the facts relevant thereto. The report shall be in such form and may be filed as such place and time as shall be prescribed by general rule or special order of the local Orphans' Court.

RULE 14. INCOMPETENTS' ESTATES

Rule 14.1. Local Rules.

The practice and procedure with respect to incompetents' estates shall be as prescribed by local rules, which shall not be inconsistent with Rules 14.2 and 14.3 hereof.

Rule 14.2. Adjudication of Incompetency and Appointment of a Guardian of the Estate of an Incompetent.

(a) A petition to adjudicate a person incompetent and to appoint a guardian to his estate shall set forth

(1) the name and relationship of the petitioner to the alleged incompetent; if not related, the nature of his interest;

(2) the age, marital status, and domicile of the alleged incompetent; whether he is a patient in a mental hospital; if so, the name and address of the hospital, the date of his admission, and whether it is a state-owned mental hospital or a Veterans Administration hospital;

(3) the names and addresses of the next of kin of the alleged incompetent;

(4) the gross value of the alleged incompetent's estate and his net income from all sources, to the extent that this information is known by petitioner;

(5) whether the alleged incompetent was ever a member of the Armed Services of the United States, or is receiving any benefits from the United States Veterans Administration or its successor.

(6) a general averment of incompetency as defined in Chapter 66 of the Probate, Estates and Fiduciaries Code;

(7) the name and address of the proposed guardian, and what, if any, relationship he bears to the alleged incompetent;

(8) an averment that the proposed guardian has no interest adverse to the alleged incompetent;

(9) whether any other court has ever assumed jurisdiction in any proceeding to determine the competency of the alleged incompetent;

(10) that the alleged incompetent has no guardian already appointed; and

(11) a prayer for a citation, directed to the alleged incompetent, with notice thereof to his next of kin and to such other persons as the court may direct, to show cause why he should not be adjudged an incompetent and a guardian of his estate appointed.

(b) The proposed guardian's written consent to the appointment shall be attached.

L. 14.2 A Testamentary Writings.

All testamentary writings of the incompetent found by the guardian, or in the possession of any other person, shall, at the time of the filing of the inventory, be filed with the Clerk of the Orphans' Court and sealed, not to be opened without Order of Court.

L. 14.2 B Incompetent's Estate. Special Petitions.

(1) Allowances.

(a) *In General.* Petitions for allowances from an incompetent's estate, or for payment of counsel fees, shall be governed by the appropriate provision of Rule L. 12.5 D and as hereinafter provided.

(b) *Contents of Petitions.* The petition shall set forth

(i) the name of the guardian, the date of his appointment; if the petitioner is not the guardian, his relationship to the incompetent, and, if not related, the nature of his interest;

(ii) a summary of the inventory, the date it was filed, and the nature and present value of the estate;

(iii) the address and the occupation, if any, of the incompetent;

(iv) the names and addresses of the incompetent's dependents, if any;

(v) a statement of all claims of the incompetents' creditors known to petitioner; and

(vi) a statement of the requested distribution and the reasons therefor; a statement of all previous distributions allowed by the Court.

(c) Restrictions Governing Allowance.

(i) If any portion of the incompetent's estate is received from the United States Veterans' administration or its successor, notice of the request for allowance shall be given this agency.

Rule 14.3. Adjudication of Competency.

A petition to adjudicate that a person previously adjudged incompetent has become competent shall set forth

(1) the date of the adjudication of incompetency;

(2) the name and address of the guardian;

(3) if the incompetent has been a patient in a mental hospital, the name of such institution, the date of his admission, and the date of discharge;

(4) the present address of the incompetent, and the name of the person with whom he is living;

(5) the names and addresses of the next of kin of the incompetent; and

(6) an averment that the mental health of the incompetent has been restored.

L. 14.3 A Accounts and Distribution.

The practice and procedure with respect to the filing and audit of accounts, as well as the distribution of the assets comprising the estate, shall conform with the practice and

procedure governing all other accounts.

Rule 14.4. *Proceedings Relating To Real Estate.*

A petition for the public or private sale, exchange, lease, or mortgage of real estate of an incompetent or the grant of an option for the sale, exchange or lease of the same shall conform as far as practicable to the requirements of these rules for personal representatives, trustees and guardians of minors in a transaction of similar type.

RULE 15. ADOPTIONS.

Rule 15.1. *Local Rules*

The practice and procedure with respect to adoptions shall be as provided by Act of Assembly and to the extent not inconsistent therewith shall conform either with the pertinent general rule or special order of the Local Orphans' Court or, in the absence thereof, with this Rule 15.

L. 15.1 A *Practice and Procedure Generally.*

This rule and the succeeding rules are adopted under the option given by Supreme Court Orphans' Court Rule 15.1 to adopt local rules as a supplement to the Supreme Court Rules.

L. 15.1 B *Private Hearing.*

All hearings required under the Adoption Act including relinquishment, termination and adoption proceedings, shall be held privately in the Courtroom of the hearing judge unless otherwise ordered by the Court.

L. 15.1 C *Notice of Natural Father.*

The following notice provisions shall apply:

1. If the name and whereabouts of the natural father are known, service shall be valid if mailed to his last known address by certified mail, return receipt requested.

2. If the name of the natural father is known but no address

is known, substituted service shall be valid by advertising once in the *Beaver County Legal Journal* and once in a newspaper of general circulation, as may be directed by the Court.

3. If no name for the natural father nor address is known, the natural mother shall execute an affidavit (to be attached to the termination or confirmation petition or adoption petition) stating either that the identity of the natural father is unknown or that she refuses to identify the natural father the affidavit shall contain the reasons for said refusal. Valid reason for refusing to identify the natural father shall include, but not be limited to, fear on the part of the mother for her life or physical safety in the event that the natural father is notified of the proceedings; irreparable harm to the child; or a legitimate uncertainty on the part of the mother as to the identity of the natural father of the child or children.

In the case where identity is unknown, no notice to a putative father shall be required for either a termination or adoption hearing. In addition, the affidavit may contain averments establishing the existence of grounds for involuntary termination under §2511 of the Adoption Act. The affidavit may be offered into evidence as substantive proof of the statements contained therein without the personal appearance of the affiant.

L. 15.1 D *Representation for Child.*

Whenever it is appropriate for the appointment of counsel under Section 2313 of the Adoption Act, as amended, the following procedures shall prevail:

(a) It shall be the obligation of the agency (as defined by Section 2102 of the Adoption Act of 1981) or counsel for the adopting parents in a private adoption proceeding, to present the Court with a written motion and proposed order for the appointment of counsel to represent a child in an involuntary termination proceeding as required by Section 2313 of the Adoption Act of 1981.

(b) counsel shall be appointed by the Court. The fees to be paid to attorneys so appointed in termination proceedings shall be the same as paid in other Court appointments but shall not exceed the maximum set forth in the Adoption Act,

as amended. Said fee shall be taxed as costs to the adopting parent or parents at the time of filing a petition for adoption.

L. 15.1 E Consents of Natural Parents.

If both natural parents of the child intended to be adopted have executed consents to the adoption, the same may be admitted into evidence as proof of relinquishment, abandonment and consent to adoption at the time of the final adoption hearing.

L. 15.1 F Conditional Relinquishment.

The hearing judge may, in his discretion, allow a relinquishment by one parent to be conditioned upon relinquishment or termination of the interest of the other parent of the child intended to be adopted.

Rule 15.2. Voluntary Relinquishment to Agency.

(a) *Petition.* A petition under Section 301 of the Adoption Act to relinquish parental rights and duties with respect to a child who has been in the care of an Agency shall include the following allegations:

(1) the name, address, age, racial background and religious affiliation of each petitioner;

(2) the information required in subparagraph (1) as to any parent who is not a petitioner, including the father of a child born out of wedlock, if he has been identified, unless the court, for cause shown, determines such information is not essential;

(3) the marital status of the mother as of the time of birth of the child and during one year prior thereto and, if the mother has ever been married, the name of her husband or husbands and her maiden name;

(4) the name, age, date of birth, racial background, sex and religious affiliation of the child;

(5) the name and address of the Agency having care of the child;

(6) the date when the child was placed with the Agency;

(7) when the child is born out of wedlock, whether the mother and the father of the child intend to marry;

(8) the reasons for seeking relinquishment;

(9) that each petitioner understands the petition, has considered the alternatives, and has executed the petition voluntarily to promote what the petitioner believes to be in petitioner's and the child's best interests.

(b) *Exhibits.* The petition shall have attached to it the following exhibits:

(1) the joinder of a parent who is not a petitioner or his or her waiver of all interest in the child, if either is obtainable;

(2) a birth certificate or certification of registration of birth of the child;

(3) the written consent of a parent or guardian of a petitioner who has not reached 18 years of age;

(4) the joinder of the Agency having care of the child and its consent to accept custody of the child until such time as the child is adopted.

(c) *Notice and Hearing.* If a parent, including the parent of a child born out of wedlock, has not relinquished his or her rights and duties in and to the child or joined in the other parent's petition hereunder, then notice of the hearing on the petition to relinquish rights and duties shall be given to the first referred to parent as provided in Rule 15.6. A parent may waive in writing the right to such notice. Each petitioner and each person whose joinder or consent is attached to the petition shall be examined under oath at the hearing unless excused by the court.

Rule 15.3. Voluntary Relinquishment to Adult Intending to Adopt Child.

(a) *Petition.* A petition under Section 302 of the Adoption Act to relinquish parental rights with respect to a child who has been in the exclusive care of an adult or adults who have filed a Report of Intention to Adopt

shall include the allegations required under subparagraphs (1), (2), (3), (4) and (7), (8) and (9) of Rule 15.2(a) and

(5) the date when the Report of Intention to Adopt was filed;

(6) the date when the child was placed with the adult or adults.

(b) *Exhibits.* The petition shall have attached to it the first three exhibits specified in Rule 15.2(b) and

(4) the separate consent of the adult or adults to accept custody of the child.

(c) *Notice and Hearing.* If a parent, including the parent of a child born out of wedlock, has not relinquished his or her rights in the child or joined in the petition herunder, then notice of the hearing on a parent's petition to relinquish rights shall be given to the first referred to parent as provided in Rule 15.6. A parent may waive in writing the right to such notice. Each petitioner and each person whose joinder or consent is attached to the petition shall be examined under oath at the hearing unless excused by the court.

Rule 15.4. Involuntary Termination of Parental Rights.

(a) *Petition.* A petition for involuntary termination of parental rights under Sections 311 and 312 of the Adoption Act shall include the following allegations:

(1) the names and address of the petitioner and his or her standing;

(2) the name, age, date of birth, racial background, sex and religious affiliation of the child;

(3) the name, address, age, racial background and religious affiliation of the parent or parents, including the father of a child born out of wedlock, if he has been identified;

(4) the marital status of the mother as of the time of birth of the child and during one year prior thereto and, if the mother has ever been married, the name of her husband or husbands and her maiden name;

(5) the date when the child was placed in the care of the petitioner;

(6) facts constituting grounds for the involuntary termination under Section 311 of the Adoption Act, and a reference to the applicable subsection or subsections;

(7) whether either parent of the child is entitled to the benefits of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended (50 U.S.C.A. 501 et seq.);

(8) that the petitioner will assume custody of the child until such time as the child is adopted.

(b) *Exhibits.* The petition shall have attached to it the following exhibits:

(1) a birth certificate or certification of registration of birth of the child;

(2) the joinder of a parent of a petitioner who is under age of 18, unless excused by the court.

(c) *Guardian and Litem.* (1) When the termination of the parental rights of a parent who has not attained the age of 18 years is sought, unless the court finds the parent is already adequately represented, the court shall appoint a guardian ad litem to represent the parent. The appointment of a guardian ad litem may be provided for in the preliminary order attached to the petition for involuntary termination of parental rights.

(2) the decree appointing a guardian ad litem shall give the name, date of birth and address (if known) of the individual whom the guardian ad litem is to represent and the proceedings and period of time for which the guardian ad litem shall act.

(d) *Notice and Hearing.* Notice of the hearing on the petition shall be given, in accordance with Rule 15.6 hereof, to the parent or parents whose rights are sought to be terminated, including the parent of a child born out of wedlock, to any intermediary named in a Report of Intention to Adopt, if one has been filed, and to the guardian of the person or guardian ad litem of any parent or parents who is or under the age of 18 years. Each petitioner, each person whose joinder or consent

is attached to the petition and any intermediary named in a Report of Intention to Adopt shall be examined under oath at the hearing they are excused by the court.

Rule 15.5. Adoption.

(a) *Petition.* The petition shall contain all declarations and information required by Section 401 of the Adoption Act and any additional information required by local rules.

(b) *Notice or Consent — Parents of Child.* Notice as provided by Rule 15.6 shall be given to each parent unless:

(1) he or she has consented in writing to the adoption and waived notice of hearing, or

(2) he or she has voluntarily relinquished his or her parental rights in a proceeding under Rule 15.2 or Rule 15.3, or

(3) his or her parental rights have been involuntarily terminated in a proceeding under Rule 15.4.

(c) *Investigation.* A petition for adoption shall be subject to investigation as prescribed by local rules. The investigation report shall cover the matters alleged in the petition, any other matters that may affect the welfare of the child, and the information required by Sections 335 and 424 of the Adoption Act.

(d) *Disclosure of Fees and Costs.* At the hearing there shall be offered in evidence a report, certified by counsel for the petitioner, setting forth the amount of fees and expenses paid or to be paid to counsel, and any other fees, costs and expenses paid or to be paid to an intermediary or any other person or institution, in connection with the adoption.

(e) *Adult — Change of Name.* When the person to be adopted is over the age of 18 years and desires to assume the surname of the adopting parent or parents, evidence showing compliance with the law relating to change of name must be introduced before a decree will be made.

Rule 15.6. Notice: Method and Time.

Notice to every person to be notified shall be by personal service, service at his or her residence on an adult member of the household, or by registered or certified mail to his or her last known address. If such service is not obtainable and the registered or certified mail is returned undelivered, then:

(1) no further notice shall be required in proceedings under Rules 15.2 or 15.3, and

(2) in proceedings under Rules 15.4 and 15.5, further notice by publication or otherwise shall be given if required by general rule or special order of the local Orphans' Court.

If, after reasonable investigation, the identity of a person to be notified is unknown, notice to him or her shall not be required.

Rule 15.7. Impounding; Docket Entries; Reports; Privacy.

(a) All proceedings shall be impounded, docket entries made, reports made to the Department of Public Welfare, and certificates of adoption issued as provided in Sections 505, 506, 507 and 508, respectively, of the Adoption Act.

(b) The name or names of the natural parents and the name or names of the child before adoption shall not be entered on any docket which is subject to public inspection.

(c) No decision under the Adoption Act or any hearing judge or appellate court publicly reported or in any other way made available to the public by the court shall disclose the identity of the individual parties.

RULE 16.1 SHORT TITLE

These rules shall be known as Supreme Court Orphans' Court Rules, and shall be cited as Pa.O.C. Rules.

L. 161.1 A Beaver County Rules.

The rules set forth herein which do *not* appear in bold face type, shall be known as Rules of the Court of Common Pleas of Beaver County, Orphans' Court Division, and shall be cited as Beaver O.C. Rules.

RULE 17 FORMS

L. 17.1 Beaver County Forms

The appropriate forms to be used in accordance with these Rules in the Court of Common Pleas of Beaver County, Orphans' Court Division, are those forms available from the Clerk of the Orphans' Court of Beaver County.

IN THE COURT OF COMMON PLEAS OF BEAVER COUNTY P E N N S Y L V A N I A

ORPHANS' COURT DIVISION

In Re: Estate of :
 :

 :

 : No. _____

 : **STATEMENT OF**

 : **PROPOSED DISTRIBUTION**

You are hereby notified that an Account has been filed in the above captioned estate and unless objections are filed at or before the Audit, distribution will be made as set forth in the following Schedules.

PERSONALTY

Balance for Distribution _____

To be paid as follows:

REALTY